

### **REMARKS**

Claims 1-14 are pending in the present application. The Office Action and cited references have been considered. Favorable reconsideration is respectfully requested.

The drawings were objected to because the accessory recited in claim 8 is allegedly not shown in the drawings as originally filed. This objection is respectfully traversed for the following reasons. Claim 8 recites that the oboe of claim 1 “comprises an accessory in the form of another first portion interchangeable with said first portion (10).” The specification, at page 8, lines 7-24, states:

In fact, this head portion 10 is crucial to the sound, accuracy and octave notes of the instrument and it may be beneficial for the oboe to include one or more interchangeable heads as accessories.

For example, the oboe heads 10 could have different longitudinal bore diameters, and where appropriate different lengths.

It is furthermore possible to use a head made from a material that is insensitive to thermal shock and moisture, for example resin, plastic or Altuglass® type polymethylmethacrylate.

A material that is insensitive to thermal shock and moisture improves the resistance of the oboe head to splitting, which can occur because of moisture in the breath of the player and in the event of concerts in cold places (churches, air-conditioned premises, etc.).

Thus each player can personalize the instrument by choosing an appropriate oboe head 10.

Thus, there are different accessories that could be used as the claimed oboe head 10. Oboe head 10 shown in Fig. 1 is also referred to in the specification as the accessory. Further, for an accessory that was made of a different material, no new drawing

is required to understand the claimed invention. For an accessory that was a different length, or had a different internal bore diameter, since patent drawings are not made to scale, showing an additional drawing of another head 10 is also unnecessary, as the head 10 shown in Fig. 1 illustrates the claimed invention. Applicant respectfully submits that one of ordinary skill in the art would understand how to make and use the invention recited in claim 8, based on the specification and drawing as originally filed. Further illustration is unnecessary. For at least these reasons, withdrawal of this objection is respectfully requested.

Claim 14 was objected to under 37 C.F.R. § 1.75(c) as being in improper form. Applicant does not understand this objection. As seen above, and as in the preliminary amendment filed on April 23, 2007, claim 14 was not in multiply dependent form – it depends only from claim 4. A dependent claim can properly depend from a multiply dependent claim. If this objection is maintained, the Examiner is requested to contact the undersigned to resolve the issue.

Claims 1-14 were rejected under 35 U.S.C. §103 as being unpatentable over Lancie (U.S. Patent No. 3,161,102) in view of Kelischek (U.S. Patent No. 3,308,707). This rejection is respectfully traversed for the following reasons.

Claim 1 recites an oboe comprising an elongate body in two portions adapted to be nested one in the other, a first portion (10) carrying at one end (10a) a onion (11) adapted to receive a reed and a second portion (20) being adapted to be nested with a horn (30). A plane of transverse nesting of the two portions of the body is situated between

octave holes (13) and note holes, there being note holes only in the second portion (20) and the horn (30). This is not taught, disclosed or made obvious by the prior art of record.

Lancie discloses an oboe of the type made for many years, comprising two body portions L and U nested one in the other, each portion L and U comprising note holes 11, 11'. As admitted by the Examiner, in Lancie, the plane of transverse nesting is not situated so that all note holes are only in the second portion L.

According to the present invention, the new position of the plane of transverse nesting facilitates the fitting of the top body and a bottom body, since there are fewer keys and links that project beyond each body at the nesting plane. Moreover, since all note holes are positioned in the same body, the positioning of the notes along the body is easier and is not prevented by the presence of fixing means. Finally, the top body without note holes is similar to a head, readily interchangeable or replaceable, should it split.

The oboe as claimed is not obvious over Lancie in view of the teachings of Kelischek for the following reasons. First, Kelischek does not concern an oboe but discloses a krummhorn. A krummhorn does not comprise an onion which receives a reed. In a krummhorn, the reed is placed inside the top body of the instrument (see the reed 58 inside the body 54 in figure 2). Moreover, in a krummhorn, the majority of note holes are closed directly by the fingers (see column 3, lines 53 – 60) and not by means of keys, as in an oboe. Thus, separating the body of an oboe into three parts, as opposed to two, with its keys for covering the various holes is a more difficult task than separating the body of a krummhorn, which contains only one key. For at least these reasons, one of ordinary skill in the art would not consider the teaching of Kelischek for improving the fitting of an oboe.

Moreover, the oboe and krummhorn are both very old instruments and have existed in their current configuration for several hundred years without change. This is strong evidence to one of ordinary skill in the art would not have found it obvious to modify the body of an oboe, even when considering the teachings of Kelischek, which issued over 40 years ago, with respect to construction of the krummhorn.

Furthermore, even if one of ordinary skill in the art would have considered the teachings of Kelischek instructive to modify Lancie, the resulting modification would not have been the claimed invention. Indeed, when considering Kelischek, the plane of transverse nesting is positioned between the top body 54 and the bottom body 18, so that no holes are provided in the top body 54 which encloses the reed. Consequently, should one of ordinary skill in the art consider the teachings of Kelischek for modifying an oboe body, he would have been instructed to provide the plane of transverse nesting not between the octave holes and note holes, but just near the onion receiving the reed. Thus, the claimed invention recited in claim would not have resulted from the modification of Lancie.

For at least these reasons, Applicant respectfully submits that claim 1 is patentable over the prior art of record whether taken alone or in combination as proposed in the Office Action. Claims 2-14 depend from and include the limitations of claim 1. Applicant respectfully submits that claims 2-14 are patentable in and of themselves, and for the reasons discussed above with respect to claim 1.

In view of the above amendment and remarks, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections of record. Applicant submits that

the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By /Ronni S. Jillions/  
Ronni S. Jillions  
Registration No. 31,979

RSJ:me  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\R\RINU\Croquenoy1\Pto\2008-09-16Amendment.doc